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9
10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 CHARLES HAYES ,

13 Plaintiff,

14 vs.

15 LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, et al.

16 Defendants.

Case No.: 2:20-cv-02048-KJD-BNW

**STIPULATION TO EXTEND
DISCOVERY
(First Request)
(ECF No. 28)**

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18 Defendants Las Vegas Metropolitan Police Department, Joseph Lombardo, Jennifer
19 Wood, and Doris Hearrington (collectively “LVMPD Defendants”), and Plaintiff Charles Hayes
20 stipulate and agree to extend discovery deadlines in this case by sixty days for the purpose of
21 allowing the parties to schedule depositions of named parties and third-parties and disclose
22 experts.

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I. DISCOVERY COMPLETED TO DATE

The parties exchanged initial Rule 26 Disclosures and first supplemental disclosures. The parties have served Interrogatories, Requests for Production of Documents, and Requests for Admissions. LVMPD Defendants responded to Plaintiff's written discovery requests; and Plaintiff responded to LVMPD Defendants' written discovery requests on October 29, 2021. Plaintiff issued a subpoena to the Clerk of Court for Las Vegas Justice Court to gather records on Plaintiff's criminal proceedings in Nevada.

II. DISCOVERY YET TO BE COMPLETED

Plaintiff intends to depose eight officials with the Las Vegas Metropolitan Police Department and one official with Kern County, California about events at issue in this case; and LVMPD Defendants intend to depose Plaintiff. LVMPD Defendants are currently communicating with the eight officials to schedule their depositions in November or early December 2021. Based on information in discovery responses and depositions, the parties intend to retain experts and exchange preliminary expert reports.

III. REASONS WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED

Local Rule 26-3 states in relevant part:

A motion or stipulation to extend a deadline set forth in a discovery plan must be received by the court no later than 21 days before the expiration of the subject deadline. A request made within 21 days of the subject deadline must be supported by a showing of good cause. A request made after the expiration of the subject deadline will not be granted unless the movant also demonstrates that the failure to act was the result of excusable neglect.

Here, this Stipulation comes before the expiration of a deadline sought to be extended, so only good cause must support this request. Good cause exists for the extension based on counsel for Plaintiff and LVMPD Defendants' busy calendars within the last sixty days—including trials, depositions, trial preparation, appeals, and deadlines in other matters. Further, since October 14,

2021, LVMPD Defendants' counsel have been identifying and locating contact information for witnesses, named defendants, and persons most knowledgeable on topics of booking, internal procedures, and extraditions. Counsel's efforts resulted in eight LVMPD officials who Plaintiff intends to depose in this case. LVMPD Defendants' counsel began contacting these officials about their potential availability dates for depositions, and that communication has been progressing slowly. To date, LVMPD Defendants intend to have officials available for depositions between November 16 to 23, 2021, and November 30 to December 8, 2021. But those dates would be after the current deadline to disclose experts and their reports (currently November 12, 2021). To ensure that the parties can retain experts with a sufficient basis of evidence and disputed facts, additional time is need from the current discovery deadlines governing this case.

This request for an extension is made in good faith and joined by all the parties in this case. Trial is not yet set in this matter and dispositive motions have not yet been filed. Accordingly, this extension will not delay this case. Since this request is a joint request, neither party will be prejudiced.

IV. PROPOSED EXTENDED DATES

The parties respectfully request that the Court enter an order to extend dates in the current Scheduling Order, (ECF No. 28), as follows:

(A) Discovery Deadline.

The current discovery cut-off date of Tuesday, January 11, 2022, should be extended for a period of fifty-nine days, up to and including Friday, March 11, 2022.

(B) Experts and Rebuttal Experts.

The current deadline for the parties to disclose expert reports is November 12, 2021, and for rebuttal experts is December 13, 2021. The parties request an extension of these deadlines by

sixty days—making Monday, January 10, 2022, the deadline to disclose experts; and Wednesday, February 9, 2022, the deadline to disclose rebuttal experts.

(C) Dispositive Motions

All pretrial motions, including but not limited to discovery motions, motions to dismiss, motions for summary judgment, and all other dispositive motions, shall be filed and served no later than thirty (30) days after the close of discovery: Monday, April 11, 2022.

(D) Motions in Limine/*Daubert* Motions.

Under LR 16-3(b), any motions in limine, including *Daubert* motions, shall be filed and served thirty days prior to the commencement of Trial. Oppositions shall be filed and served and the motion submitted for decision fourteen days thereafter. Reply briefs will be allowed only with leave of the Court.

(E) Pretrial Order.

Pursuant to LR 26(1)(e)(5), the Joint Pretrial Order shall be filed with this Court no later than thirty (30) days after the date set for filing dispositive motions, or by Wednesday, May 11, 2022, unless dispositive motions are filed, in which case the date for filing the Joint Pretrial Order shall be suspended until 30 days after the decision on the dispositive motions or further order of this Court. The disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections shall be included in the final pretrial order.

(F) Extensions or Modification of the Discovery Plan and Scheduling Order.

In accordance with LR 26-3, applications to extend any date set by the discovery plan, scheduling order, or other order must, in addition to satisfying the requirements of LR 6-1, be supported by a showing of good cause for the extension. All motions or stipulations to extend a deadline set forth in a discovery plan shall be received by the Court not later than 21 days before the expiration of the subject deadline. A request made after expiration of a subject deadline shall

not be granted unless the movant demonstrates that the failure to set was the result of excusable neglect. Any motion or stipulation to extend a deadline or to reopen discovery shall include:

- (a) A statement specifying the discovery completed;
- (b) A specific description of the discovery that remains to be completed;
- (c) The reasons why the deadline was not satisfied or the remaining discovery was not completed within the time limits set by the discovery plan; and
- (d) A proposed schedule for completing all discovery.

Dated this 10th day of November, 2021.

Dated this 10th day of November, 2021.

/s/ Na'Shaun L. Neal

/s/ Lyssa S. Anderson

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IT IS SO ORDERED.

Dated this 12th day of November, 2021.


UNITED STATES MAGISTRATE JUDGE